

DEPARTMENT OF PUPIL PERSONNEL

To: Jesse Bacon
Superintendent

From: Steve Smallwood
Director of Pupil Personnel

Troy Kolb
Director of Special Education

Lesa Howell
Health Services Coordinator

Date: August 25, 2023

Re: Request to enter into a MOU with Maxim Healthcare Services

Dear Dr. Bacon,

We have had a family request to allow their daughter's nurse to accompany their daughter while she attends school. Their daughter attended preschool last school year at Old Mill and she will be a kindergarten student at Old Mill Elementary this school year.

She currently has made arrangements for Maxim Healthcare Services to provide nursing services to their daughter while she is at home and has asked if we will allow that to continue while she is attending school for the 23-24 school year.

Submitted is a Memorandum of Understanding with Maxim Healthcare Services. MAXIM shall be responsible for billing student's insurance for the nursing care provided under this Agreement. BCPS will not be responsible for any payment or nonpayment to MAXIM under this Agreement.

Eric Farris has reviewed this MOU.

If you have any questions, please reach out to any one of us.

OUR MISSION IS TO INSPIRE AND EQUIP OUR STUDENTS TO SUCCEED IN LIFE

BULLITT COUNTY PUBLIC SCHOOLS IS AN EQUAL EDUCATION AND EMPLOYMENT INSTITUTION

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter "Agreement") is entered into this _____ day of _____, 2023, by and between [Old Mill Elementary located at 199 Golden Wing Road Mount Washington, KY 40047](#) [The Board of Education of Bullitt County, 1040 Hwy 44E, Shepherdsville, Kentucky 40165](#), referred to in this Agreement as "EDUCATIONAL INSTITUTION," and Maxim Healthcare Services, Inc., a Maryland Corporation including its affiliates and subsidiaries, with an office located at 233 Quartermaster Ct., Jeffersonville, IN 47130 referred to in this Agreement as "MAXIM."

RECITALS

WHEREAS, EDUCATIONAL INSTITUTION operates a school, as defined by State Law located in Kentucky and wishes to permit MAXIM on campus.

WHEREAS, MAXIM wishes to enter into this Agreement with EDUCATIONAL INSTITUTION to provide specific nursing care for EDUCATIONAL INSTITUTION student.

WHEREAS, MAXIM and EDUCATIONAL INSTITUTION agree that MAXIM will bill student's insurance for the nursing care provided to the EDUCATIONAL INSTITUTION student by MAXIM under this Agreement.

THEREFORE, in consideration of the above premises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, and intending to be legally bound, EDUCATIONAL INSTITUTION and MAXIM hereby agree to the following terms and conditions.

ARTICLE 1. TERM OF AGREEMENT

Section 1.1 Term. This Agreement will be in effect for one (1) EDUCATIONAL INSTITUTION calendar year and will be automatically renewed at the end of the first year and each subsequent year unless terminated.

Section 1.2 Termination. Either party may terminate this Agreement at any time, with or without cause, by providing at least thirty (30) days advance written notice of the termination date to the other party. Such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

ARTICLE 2. RESPONSIBILITIES OF MAXIM

Section 2.1 Services. MAXIM will provide 1:1 nursing care services to the EDUCATIONAL INSTITUTION student.

Section 2.2 Insurance. MAXIM will maintain (at its sole expense) valid policies of insurance evidencing general and professional liability coverage of not less than \$1,000,000 per claim and \$3,000,000 in the aggregate, covering the sole negligent acts or omissions which may give rise to liability for services provided under this Agreement. MAXIM will provide a certificate of insurance evidencing such coverage upon request by EDUCATIONAL INSTITUTION.

Section 2.3 Payment. [MAXIM shall be solely responsible for billing student's insurance for the nursing care provided under this Agreement. EDUCATIONAL INSTITUTION shall not be responsible for any payment or nonpayment to MAXIM under this Agreement.](#)

ARTICLE 3. RESPONSIBILITIES OF EDUCATIONAL INSTITUTION

Section 3.1 Reporting Issues/Concerns. EDUCATIONAL INSTITUTION may notify MAXIM's account representative of any issues or concerns with services provided by MAXIM Personnel at any time. However, EDUCATIONAL INSTITUTION shall report any event or incident involving MAXIM Personnel within twenty-four (24) hours of the event. This includes, without limitation events involving claims of unprofessional conduct, improper cares or services, injuries or harm caused to MAXIM personnel or a student by and through the actions of MAXIM personnel. EDUCATIONAL INSTITUTION shall cooperate with MAXIM's efforts to review all issues or concerns reported to MAXIM and shall provide MAXIM with any related documentation, incident reports and detailed description of any investigation it may have complete. EDUCATIONAL INSTITUTION shall not interview or discuss the event with MAXIM Personnel without consent.

Section 3.2 Work Environment. EDUCATIONAL INSTITUTION will provide a clean and properly maintained workspace(s) for MAXIM to conduct the Service(s) that will enable MAXIM to safely provide Services to Student. EDUCATIONAL INSTITUTION will provide furniture at its sole risk to include, but not limited to, tables and chairs, and allow MAXIM Personnel reasonable access to telephones for business use. MAXIM will not be responsible for the proper maintenance of any property supplied by EDUCATIONAL INSTITUTION.

ARTICLE 4. MUTUAL RESPONSIBILITIES

Section 4.1 Non-discrimination. Neither MAXIM nor EDUCATIONAL INSTITUTION will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by law. However, nothing in this section precludes the EDUCATIONAL INSTITUTION from making any decisions based on religion to the extent permitted by applicable laws.

ARTICLE 5. GENERAL TERMS

Section 5.1 Independent Contractors. MAXIM and EDUCATIONAL INSTITUTION are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither MAXIM nor EDUCATIONAL INSTITUTION nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

Section 5.2 Indemnification. MAXIM shall indemnify and hold harmless the ~~Educational Institution~~EDUCATIONAL INSTITUTION, elected and appointed officers, employees, agents and volunteers ("Educational Institution Indemnitees") only for negligent acts, errors, or omissions of MAXIM or its employees, agents, and/or subcontractors, for services performed under this Agreement, and only to the extent that passive and/or vicarious liability for such negligent acts, errors or omissions is imposed upon the Educational Institution Indemnitees in a claim or suit, up to the applicable state cap(s) for healthcare services. No indemnity shall be provided by MAXIM for any liability imposed upon the Educational Institution Indemnitees for their concurrent negligence, active negligence, sole negligence, and/or willful misconduct.

EDUCATIONAL INSTITUTION shall indemnify and hold harmless MAXIM, its employees, agents and subcontractors ("MAXIM Indemnitees") only for negligent acts, errors, or omissions of the Educational Institution or its employees, agents, and/or subcontractors, and only to the extent that passive and/or vicarious liability for such negligent acts, errors or omissions is imposed upon the MAXIM Indemnitees in a claim or suit. No indemnity shall be provided by the Educational Institution for any liability imposed upon the MAXIM Indemnitees for their concurrent negligence, active negligence, sole negligence, and/or willful misconduct. Notwithstanding the above, if EDUCATIONAL INSTITUTION is a public agency subject to immunity under state or federal law, it agrees to indemnify MAXIM pursuant to the above up to applicable state law limit(s).

Section 5.3 Attorneys' Fees. In the event either party is required to obtain legal assistance (including in-house counsel) to enforce its rights under this Agreement, or to collect any monies due to such party for services provided, the prevailing party shall be entitled to receive from the other party, in addition to all other sums due, reasonable attorney's fees, court costs and expenses, if any, incurred enforcing its rights and/or collecting its monies.

Section 5.4 Notices. Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

~~Old Mill Elementary Dr. Jesse~~ Maxim Healthcare Services, Inc.
~~Bacon, Superintendent~~
~~199 Golden Wing Road Bullitt~~ 7227 Lee DeForest Drive
~~County Public Schools~~ Columbia, MD 21046
~~1040 Hwy 44 E~~
~~Mount~~
~~Washington Shepherdsville, KY~~
~~40165047~~

ATTN: Contracts Department

COPY TO:
Eric G. Farris
Dinsmore & Shohl LLP
193 S Buckman Street
Shepherdsville, KY 40165

COPY TO:
Maxim Healthcare Services, Inc.
233 Quartermaster Ct.,
Jeffersonville, IN 47130
ATTN: Cassidy Griffith

Section 5.5 Headings. The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

Section 5.6 Entire Contract; Counterparts. This Agreement constitutes the entire contract between EDUCATIONAL INSTITUTION and MAXIM regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both parties.

Section 5.7 Compliance with Laws. MAXIM agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, MAXIM reserves the right to notify EDUCATIONAL INSTITUTION in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.

Section 5.8 Severability. In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.

- Section 5.9** **Limitation on Liability.** Neither MAXIM nor EDUCATIONAL INSTITUTION will be responsible for special, indirect, incidental, consequential, or other similar damages, including but not limited to lost profits, that the other party may incur or experience in connection with this Agreement or the services provided, however caused, even if such party has been advised of the possibility of such damages.
- Section 5.10** **Incorporation of Recitals.** The recitals set forth at the top of this Agreement are incorporated by reference as if fully set forth herein.
- Section 5.11** **Conflict of Interest.** By entering into this Agreement, the Parties agree that all conflicts of interest shall be disclosed to the other Party for review in accordance with that Party's policies and procedures. A conflict of interest occurs when an employee or Contractor has professional or personal interests that compete with his/her services to or on behalf of MAXIM or the EDUCATIONAL INSTITUTION, or the best interests of students. Such competing interests may make it difficult for an employee or Contractor to fulfill his or her duties impartially.

ARTICLE 6. CONFIDENTIALITY

- Section 6.1** **MAXIM/EDUCATIONAL INSTITUTION Information.** The parties recognize and acknowledge that, by virtue of entering into this Agreement and providing services hereunder, the parties will have access to certain information of the other party that is confidential and constitutes valuable, special, and unique property of the party. Each of the parties agrees that neither it nor his/her staff shall, at any time either during or subsequent to the term of this Agreement, disclose to others, use, copy, or permit to be copied, except pursuant to his duties for or on behalf of the other party, any secret or confidential information of the party, including, without limitation, information with respect to the party's students, costs, prices, and treatment methods at any time used, developed or made by the party during the term of this Agreement and that is not available to the public, without the other party's prior written consent.
- Section 6.2** **Terms of this Agreement.** Except for disclosure to his/her legal counsel, accountant or financial or other advisors/consultants neither party nor its respective staff shall disclose the terms of this Agreement to any person who is not a party or signatory to this Agreement, unless disclosure thereof is required by law or otherwise authorized by this Agreement. Unauthorized disclosure of the terms of this Agreement shall be a material breach of this Agreement and shall provide the party with the option of pursuing remedies for breach or immediate termination of this Agreement in accordance with the provisions stated herein.
- Section 6.3** **Student Records/Data.** The parties recognize and acknowledge that, by virtue of entering into this Agreement, the parties will receive and exchange educational information, personal information and/or medical information regarding the students being served under this Agreement and that the access to, use of and disclosure of this information is governed and protected by various federal and state laws and regulations to include, without limitation, the Family Educational Rights and Privacy Act ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH").

EDUCATIONAL INSTITUTION will be responsible for establishing and overseeing all information and/or data security measures, which may be needed to maintain and protect the security of all computer systems, networks, files, data, and software related to the services under this Agreement. EDUCATIONAL INSTITUTION will be responsible for providing all education and training to MAXIM Personnel as it relates to EDUCATIONAL INSTITUTION's privacy and security processes, including, without limitation the EDUCATIONAL INSTITUTION's process and expectations for collecting, storing, securing, and transferring data collected under this Agreement. EDUCATIONAL INSTITUTION acknowledges and understands that in terms of Maxim Personnel placed in the EDUCATIONAL INSTITUTION's physical or technical environment for remote services, any

Personally identifiable information (“PII”) or Protected Health Information (“PHI”) viewed, created, accessed, and/or stored by MAXIM Personnel would be done solely in the EDUCATIONAL INSTITUTION’s technical environment. Additionally, EDUCATIONAL INSTITUTION agrees to indemnify and hold harmless MAXIM, its directors, officers, shareholders, employees, and agents from and against any and all claims, actions, or liabilities arising out of and/or in connection with any data security or lack of data security while MAXIM Personnel is providing remote service(s).

MAXIM will be responsible for establishing and overseeing all information and/or data security measures, which may be needed to maintain and protect the security of all computer systems, networks, files, data, and software related to the services under this Agreement. MAXIM will be responsible for providing all education and training to MAXIM Personnel as it relates to MAXIM’s privacy and security processes, including, without limitation MAXIM’s process and expectations for collecting, storing, securing, and transferring data collected under this Agreement.

Section 6.4 If necessary, the parties agree to resist any effort to obtain access to such records or information in judicial proceedings, except such access as is expressly permitted by federal/state regulations.

Section 6.5 The obligations set forth in this Section shall survive the termination of this Agreement.

EDUCATIONAL INSTITUTION and MAXIM have acknowledged their understanding of and agreement to the mutual promises written above by executing and delivering this Agreement as of the date set forth above

BOARD OF EDUCATION OF BULLITT
COUNTY OLD MILL ELEMENTARY

MAXIM HEALTHCARE SERVICES, INC.:

Signature

Signature

Printed Name & Title

Printed Name & Title

Date

Date

Jesse Bacon, Superintendent

Signature

Date